

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By **VICE CHAIRMAN RIC HOLDEN**, on February 1, 2001
at 3:00 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Arnie Mohl, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Vicki Cocchiarella (D)
Sen. Bob DePratu (R)
Sen. Dan Harrington (D)
Sen. Sam Kitzenberg (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Glenn Roush (D)

Members Excused: Sen. Dale Berry (R)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Marion Mood, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 75, 1/23/2001; SB 3,
1/22/2001
Executive Action: none

HEARING ON HB 75

Sponsor: REP. EDITH J. CLARK, HD 88, Sweetgrass

Proponents: Deputy Sheriff Mark Pattison, Montana Highway
Patrol

Opponents: None

Opening Statement by Sponsor:

REP. EDITH CLARK, HD 88, Sweetgrass, opened by stating HB 75 addressed a safety issue and was requested by a deputy sheriff from Toole County. He had brought to her attention that he often stopped unlicensed drivers who were operating someone else's vehicle, usually a friend or relative. She then read from his letter which in essence said that the reason for revocation or suspension of a driver's licence was that the offender was a hazard to others on the road. Her bill would make it possible to also penalize the person allowing the unlicensed driver to operate their vehicle. She wanted to expand a current law which makes it illegal to allow an unauthorized minor to drive, to include any unlicensed driver.

Proponents' Testimony:

Mark Pattison, Montana Highway Patrol, repeated that he proposed this bill to make it illegal to knowingly allow an unauthorized driver to drive. He clarified the term unauthorized to include anyone who does not have a driver's licence, whose licence had been revoked or suspended due to some traffic offense such as DUI's or failure to pay citations. He further stated that most licences are revoked for alcohol related reasons, and that the vehicle may be seized if they are caught driving without a licence, but only if it is registered to the offender; he pointed out that is why some people who have lost their licence in this manner try to circumvent the law by driving someone else's car. He repeated that this bill would allow law enforcement to address this problem. **EXHIBIT(his26a01)**

Questions from Committee Members and Responses:

SEN. ROBERT DePRATU asked about the legal ramifications with regards to an automobile dealer merely asking a customer if he had a licence prior to a test drive, rather than insisting on actually seeing it; if the customer's affirmation turns out to be false, and he wrecks the vehicle or causes harm to others, could the dealership be held liable under this new law. **Officer Pattison** pointed to the word 'knowingly' and felt that this bill would not penalize a car dealer who unknowingly let an unlicensed person drive. **SEN. JERRY O'NEIL** wondered if this law would apply to someone teaching his wife, not a minor, how to drive. **Officer Pattison** replied that by law, she should have obtained a learner's permit. He repeated that this bill did not address something like parking lot driving, it addresses people driving without driver's licences because they have been suspended or

revoked. **SEN. O'NEIL** then asked if this bill could be amended to include a teaching situation. **Officer Pattison** repeated that person should obtain a learner's permit.

Closing by Sponsor:

REP. CLARK closed on HB 75.

HEARING ON SB 3

Sponsor: **SEN. SAM KITZENBERG, SD 48, Glasgow**

Proponents: **SEN. GREG JERGESON, SD 46, Chinook**
SEN. LINDA NELSON, SD 49, Medicine Lake
REP. CAROL JUNEAU, HD 85, Browning
REP. JOHN MUSGROVE, HD 91, Havre
REP. KARL WAITSCHIES, HD 96, Peerless
John C. Brenden, Scobey, self
SEN. JON TESTER, DD 45, Big Sandy
Allan Underdal, County Commissioner, Toole County
Raymond Salois, Glacier County Commissioner ,
Cut Bank
George Ochensky, Chippewa-Cree Tribe
Dr. Brad Bekkedahl, Finance and Economic
Development Commisioner, Williston, N.D.
William L. McCauley, City of Cut Bank
Art Kleingan, Blaine County Commissioner
Max Maddux, Chinook, self
Dave Reinhardt, Hinsdale, self
Eugene Fenderson, MJH&HC
Patti Keebler, Montana AFL-CIO
Carol Lambert, self
David Brewer, self
Burt Johnston, self
Mike Strand, Montana Independent Telecommunication
System
Larry Bonderud, Mayor, Shelby
Betty Stone, Glasgow, owner, Cottonwood Inn, self
Shirley Kirkland, KLTZ & KLAN Radio, Glasgow
Bruce Glennie, Glasgow Chamber of Commerce
Bob Sivertson, Havre, self
REP. FRANK SMITH, HD 98, Poplar
SEN. PETE EKEGREN, SD 44, Choteau
SEN. JERRY O'NEIL, SD 42, Kalispell
REP DON HEDGES, HD 97, Antelope
Larry Mires, Interpretive Center at Ft. Peck

**John Rabenberg, Ft. Peck/Missouri Valley
Development Corporation
SEN. GLENN ROUSH, SD 43, Choteau**

Opponents: None

Opening Statement by Sponsor:

SEN. SAM KITZENBERG, SD 48, Glasgow, opened by referring to U.S. Highway 2 which someday will run from the east coast to the west coast and in 10 years time, this four-lane highway will be at Montana's border where it will meet with our existing two-lane road. SB 3 directs the Department of Transportation to construct a four-lane highway across Montana, from the North Dakota border to Idaho, along the existing U.S. Highway 2. He stressed this would bring economic development to the Hi-Line as well as an increase in tourism; moreover, the highway would be safer because it would be better equipped to deal with the increase of semis, many of which are already using this road. He pointed to the fact that many towns and businesses along the Hi-Line are struggling; told of truck-stops that are now closed, towns that are losing population, declining school enrollment, and stressed that the future of the area depends on U.S. Highway 2. He praised the foresight of states like Minnesota and North Dakota who have such main arteries, and expressed hope that Montana's congressional delegation would see it fit to lend a helping hand. He also dispelled some constituents' concern about a four-lane highway by-passing their small towns, explaining that interstate highways by-pass small towns, four-lane highways go through them, and he was going to preserve Montana's small town character. He then addressed concerns about the financial aspect, stating people had expressed fear that this would drain the coffers and leave no money for any other program, including the Highway 93 project but intimated Highway 93 would be done long before Highway 2. He maintained this bill would not keep anything that was already planned from becoming a reality, and he also said the Department of Transportation informed him that their plans extended out five years and did not include any new four-lane highways. Lastly, he maintained population numbers should not be the only criteria for consideration of a highway project; people and economic development follow good roads, and he asked for what he called geographical fairness.

{Tape : 1; Side : A; Approx. Time Counter : 24.1}

Proponents' Testimony:

SEN. GREG JERGESON, SD 46, Chinook, talked about the formulas used to distribute funding for highway projects which often leave us in a stranglehold. He said that by strangulations and

neglect, the condition of U.S. Highway 2 in Montana has become an abysmal failure which leads to greater challenges to businesses and economic activity, and that we have to find a way to turn this around, restoring economic opportunity to a major portion of rural Montana.

{Tape : 1; Side : B; Approx. Time Counter : 0}

SEN. LINDA NELSON, SD 49, Medicine Lake, said she was very pleased to see so many people in the room willing to testify and did not want to take up all of her allotted time, but donate it to them. She briefly stated this would be a wonderful economic opportunity, not only for the Hi-Line but for all of Montana. She did mention the fiscal note but said one has to spend money to make money, and she hoped this project would be given consideration.

REP. CAROL JUNEAU, HD 85, Browning, commended **SEN. KITZENBERG** for bringing this bill forward, and said she strongly supported it for the economic benefit it presented.

REP. JOHN MUSGROVE, HD 91, Havre, rose in support of SB 3 for safety and economic reasons.

REP. KARL WAITSCHIES, HD 96, Peerless, stated in order to develop economically, you need products and you need transportation for these products, and he asked the department to take the first steps to give Montana that opportunity with a good highway system.

John Brenden, self, repeated the sentiments of the previous proponents, and said we have to seize the moment to make Montana a better place economically.

SEN. JON TESTER, SD 45, Big Sandy, stated that this bill was long overdue and asked the committee to pass this out to get a good debate on the floor.

Allan Underdal, Toole County Commissioner, wanted to take this opportunity to endorse this proposal; he admitted it was a very ambitious project but one that will benefit a large portion of Montana by bringing employment to Montanans during construction, improving transportation across northern Montana, improving economic development opportunities, and promoting tourism. This project would have far reaching benefits for one of the most economically depressed areas of Montana.

Raymond Salois, Glacier County Commissioner, also rose in support of SB 3.

George Ochensky, Chippewa Cree Tribe, Rocky Boy's Reservation, stated that the tribe stood in support of this bill because of its potential to increase tourism and economic development for the Hi-Line area. Expansion of U.S. Highway 2 will allow tourists to travel between the Black Hills and Glacier Park which will greatly benefit the Indian reservations as well as the rest of the communities along this route. He offered statistics with regards to the unemployment rate on the reservations, and stated the per capita income in 1996 on the Rocky Boy's reservation was less than \$4,500. In closing, he expressed the hope that the improved highway would change this and spurn economic development. He offered **EXHIBIT(his26a02)**.

Dr. Brad Bekkedahl, Finance and Economic Development Commissioner for Williston, N.D., handed in written testimony **EXHIBIT(his26a03)**.

CHAIRMAN RIC HOLDEN changed the protocol to accommodate **Dr. Bekkedahl** who was under a time constraint and asked for questions from the committee for this proponent.

SEN. GLENN ROUSH asked him to briefly touch on the issue of deregulation of parts of the transportation industry, and what this four-lane roadway has helped to do in North Dakota. **Dr. Bekkedahl** referred to his written testimony in **EXHIBIT (3)**, page 2, marked by brackets and admitted this was one of the key points he brought to his governor when asking for support of completion of the system, and he said that he realized the people in the rural areas need that extra lift because deregulation meant poorer airline service and higher fares, and they had to rely on an adequate highway system. **SEN. ROUSH** wondered if there had been a noticeable increase in travel on the four-lane highway system as compared to when it was just two-lane. **Dr. Bekkedahl** answered that the completed stretch of four-lane highway has shown increases comparable to the interstate system south of there, and decreases in traffic on the yet to be completed two-lane stretch where businesses have started adding surcharges to stay afloat.

This concluded the questions to this proponent, and **CHAIRMAN HOLDEN** invited further proponents to step forward.

William McCauley, former Mayor of Cut Bank, stated that people on the Hi-Line are struggling to find markets for their agricultural products and getting them to those markets. He felt that this proposed highway would be a great asset, opening up both the Seattle and Minneapolis areas.

Art Kleingan, Blaine County Commissioner and Chairman of the Bear Paw Development Corporation, viewed this proposal as an investment. He recounted many businesses that showed interest in the Hi-Line but left after finding a lack of transportation for their finished products or the needed raw materials. He commended the Department of Transportation for continued repairs to the road but felt the time had come to start over, and touched on the safety issue with regards to the semis that were using this narrow road.

Max Maddux, Chinook, self, referred to **EXHIBIT(his26a04)** which he had handed out. He stressed that this proposal was not all about money but about people, too. He told of friends and family members he had lost in accidents on the highway and expressed hope that this bill would pass.

{Tape : 2; Side : A; Approx. Time Counter : 0.8}

Dave Reinhardt, Hinsdale, self, repeated that this proposal was a safety as well as an economic issue and hoped for the committee's support.

Eugene Fenderson, Montana Joint Heavy & Highway Committee, stated his organization was made up of several unions, such as the Ironworkers', Teamsters', Operating Engineers', and the Labor Unions. He referred to the development of the interstate system some 50 years ago and recalled the doomsayers who said this would never be reality, and said he was sure that someday, there would be a four-lane highway linking Minneapolis and Seattle.

Patti Keebler, Montana AFL-CIO, stated that her organization supported good jobs, safe travel, and strong communities which would result from the proposed highway construction in SB 3.

Carol Lambert, self, also rose in support for SB 3, citing economic and safety reasons.

David Brewer, Havre, self, reiterated this project would be very valuable for all of Montana. He also referred to a military training facility being built along the Hi-Line with plans for an even bigger regional facility which could become a reality with better access.

Burt Johnston, self, stated that the economic issue had been addressed adequately in previous testimony, and that he wanted to add that the issue of safety was foremost on his mind, traveling 2,000 to 3,000 miles a month on this highway for business. He cited the different types of vehicles, such as farm vehicles, busses, and semis all traveling at different speeds, making the narrow highway unsafe.

Mike Strand, Executive Vice President and General Counsel for Montana Independent Telecommunication Systems, also referred to previous testimony with regards to rural economic development and safety. He stated that the companies he represents provide a wide variety of telecommunication services along the Hi-Line, and that their employment has grown from 70 to 250, the reason being their acquisition from U.S. West who no longer wanted to be in that area. This telecommunications infrastructure is very attractive to companies wanting to relocate in Montana but when they look at the other infrastructure like the poor highway system along the Hi-Line, diminishing rail system, and poor airline service, they decide against locating here. He also cited the many car accidents he has witnessed in his extensive travels on this highway, saying the time has come for change.

John Bonderud, Mayor of Shelby, said that the issue of transportation infrastructure equity is a real one and asked for support of SB 3.

Betty Stone, owner of the Cottonwood Inn, Glasgow, repeated the economic benefits of this proposal. She further stated that she had worked to promote tourism in Montana, and that a four-lane highway would very much help in drawing tourism to the state.

Shirley Kirklund, Manager of Glasgow's radio stations, stated that through her business, she had an opportunity to interview people about this issue, and found out from a former mayor of Glasgow that this was also an issue in the 1980's. She, too, felt this proposal would be a boon to the area and mentioned the hospital in Glasgow which enjoyed getting a number of visiting specialists who would find traveling there easier since the weather was not always conducive to flying.

Bruce Glennie, Director, Glasgow Area Chamber of Commerce, repeated that the proposed highway was absolutely essential for the economic viability of the Hi-Line.

Bob Sivertson, Chinook, self, offered written testimony **EXHIBIT(his26a05)**. He also addressed the cost estimate in the fiscal note and wondered how much money would be spent on shoring up the deteriorating highway compared to building a four-lane highway.

REP. FRANK SMITH, HD 98, Poplar, also spoke of the declining economy in that area, lauding North Dakota's foresight in building the four-lane highway across its state.

SEN. PETE EKEGREN, SD 44, Choteau, stated he was born on the Hi-Line and had watched its demise over the years, and he felt it critical to do whatever it took to help.

SEN. JERRY O'NEIL, SD 42, Kalispell, felt that we could ill afford not to build this four-lane highway, and we should start now because it would be a long time before completion. He also felt in light of this proposal, no more 2-lane bridges should be built on that highway.

REP. DON HEDGES, HD 97, Antelope, mentioned one resource that had not been discussed, that being the B-52 Air Force Base in Glasgow, owned by the Boeing Company. He said that some day, we will be looking for airports able to accommodate large freighter type planes, and that utilizing this existing airport along with a reconstructed four-lane highway, would open up a whole new world of trading opportunities.

Larry Mires, President of the Interpretive Center at Ft. Peck, stated that he highly endorsed SB 3 on behalf of tourism and museums because it would be a definite boon to the Hi-Line.

John Rabenberg, Missouri Valley Development Corporation, repeated the economic reasons for SB 3, and stated that he had not heard any negative comments about this project in their entire area.

SEN. GLENN ROUSH, SD 43, Choteau, stated that economic development followed a four-lane highway system, pointing at Interstate Highways 90 and 15 where tourists travel and trucks move their freight. He commended the highway department for what they have already done to improve U.S. Highway 2 but believed this bill needs to pass so monies planned for that highway's improvement could be set aside for the construction of a four-lane road.

Informational Testimony:

{Tape : 2; Side : B; Approx. Time Counter : 0}

Dave Galt, Director, Montana Department of Transportation, handed out **EXHIBIT(his26a06)** and explained that this was the plan the department was currently working with. He said the sections of the map marked in red were scheduled for construction to National Highway System (NHS) standards within the next five years. The green boxes represent bridges on Highway 2 which are less than 32 feet wide; the yellow strips represent pavement sections less than 40 feet wide. All this is currently being prepared with buying right-of-way, proceeding with environmental statements, getting things lined out, designed, written up in plans, contracted and out the door. The blue sections represent

projects beyond five years. The second page reflects, in yellow, the total surface of two-lane roads which are less than 40 foot tops, in the three districts that encompass U.S. Highway 2. He then pointed to the third page of the exhibit; it shows a cross-section of highway which explains what a 40 foot top in NHS standards means, namely two twelve foot driving lanes, two eight foot shoulders, and two slopes that flatten out 6:1, which is a safety issue and gives cars room to recover should they go off the road. This standard is what the department hopes to deliver on U.S. Highway 2. The last page shows how much money the department allocated to each of these three districts out of the \$260 million it has available for all its programs in the whole state. He felt SB 3 was not a bad idea but questioned whether the state could afford it at this point. He said he was committed to the program as outlined above and believed that 90% of U.S. Highway 2 would be a 40 foot roadway by the end of this decade. He offered a current cost estimate of \$260 to \$300 million for this project. He also felt the highway would include some 4-lane stretches, but those would mainly be in the western part of the state, not along the Hi-Line.

Questions from Committee Members and Responses:

SEN. ARNIE MOHL referred to the map and asked what kind of mileage this 5-year program included. **Dave Galt** was not sure, but promised to get it tallied up. **SEN. MOHL** then asked for an estimate. **Dave Galt** was provided with the tally by his staff and said it was 148 miles, and that was the tentative plan until 2005, for the NHS standard. **SEN. MOHL** asked that when the department purchased the right-of-way, did they purchase enough to allow for a full four-lane highway. **Dave Galt** answered that they did not at this time. **SEN. MOHL** then asked if it was possible to purchase land with the four-lane in mind, without building it now, but then having this land available when a four-lane was actually built. **Dave Galt** replied it was possible but it would increase cost considerably and thus take away from other allocations. He also pointed out that if this became a mandate, it could happen that a landowner was an unwilling participant, and the department would have to take him to court, condemning this right-of-way. It then could become a very difficult exercise, proving "necessity" which is a component of a condemnation suit.

SEN. GERALD PEASE wondered if there was a formula in establishing priorities with regards to road projects. **Dave Galt** replied that there is a process which is used after the monies are divided into all the individual projects, and this process reviews capacity, congestion, and safety issues, i.e. number of accidents. **SEN. PEASE**, in looking at the map, wondered why there was not much going on between Glasgow and Malta. **Dave Galt**

pointed to page 2, and said that roads that are not shown in yellow already have a 40 foot surface. **SEN. MOHL** complimented the department on their long-range plans for the highway as a solid two-lane, adding it would create bottlenecks if a few stretches of four-lane were included, and recommended again that when right-of-way was purchased, to make every effort to buy enough to enable them to construct a four-lane highway in the future. He said he realized this would also depend on the amount of federal highway dollars and advocated going to Montana's congressional delegation for additional funding. **Dave Galt** answered that, indeed, we do have very influential legislators in Washington, D.C. with respect to the committees on which they are serving. He mentioned, though, that with additional federal dollars, Montana had to come up with additional funds to match them, and the level of match required on the state program was stretched to the limit. He stated we cannot lower it any more or we stand to lose Montana's favorable match rate which is 87 cents of federal money to 13 cents of state money compared to a normal ratio of 80:20. Lastly, he said the department was committed to stay on schedule and see Highway 2 through as scheduled. **SEN. ROUSH** referred to testimony about this highway not bypassing any towns, and asked if that was the department's policy. **Dave Galt** stated that there is an access issue involved, saying it is difficult to eliminate some of that access in order to make a four-lane highway work. This is why reverse frontage roads are built behind businesses, so people have access to them from the back, and do not disrupt the traffic flow on the four-lane highway. He assured those present that no communities would be bypassed on the Hi-Line; it remained to be seen how much room there was for the highway through some of the communities like Hinsdale or Saco but there were no plans to run loops around those towns. He then referred the question to **Pat Sand, Administrator for the Planning Division of the MDT** who explained that an incorporated community had the final word on whether they wanted to be bypassed or not. **CHAIRMAN HOLDEN** wondered how many road miles were involved between North Dakota and Idaho. **Dave Galt** replied it was 667 miles. **CHAIRMAN HOLDEN** referred to section (1) of SB 3 and asked what this language meant in terms of Montana's current highway program. **Dave Galt** answered that it says "the commission shall direct the department to construct a four-lane highway along the route of U.S. Highway 2 from the North Dakota border to the border of Idaho ..." which would mean the department would have to take money away from other programs, and with the size of the Highway 2 project, it would be anybody's guess when it could be completed.

{Tape : 3; Side : A; Approx. Time Counter : 0.7}

CHAIRMAN HOLDEN said he wanted to know what the department's interpretation of the bill as drafted was, knowing they had a certain schedule pertaining to a number of areas, and felt with

the language in SB 3, it would take precedence over any other project. **Dave Galt** replied he would interpret it the same way with regards to NHS routes. **SEN. ROBERT DePRATU** asked of **Connie Erickson** if the bill could be amended to include sections other than just four-lane despite the title saying four-lane. **Ms. Erickson** replied it could be amended to say "to direct the department to construct portions of a four-lane highway along the present route of U.S. Highway 2" and still be within the title. **SEN. DePRATU** acknowledged the effort that went into this bill and asked if the sponsor was open to amendments considering construction of a highway similar to U.S. 93 which had portions of two, three, and four lanes depending on traffic conditions. **SEN. KITZENBERG** answered that he would be open to that. **CHAIRMAN HOLDEN** then asked the sponsor to think about an amendment to clarify his intent with this bill as it looked to him that the rest of the state was put on hold pending passage of this legislation.

Closing by Sponsor:

SEN. KITZENBERG closed on SB 3 by repeating that his intention was not to interfere with the department's schedule, but to follow suit with this project. He lamented the lack of support he had gotten from the department due to the Hi-Line being a rural and less populated area. He stated he was willing to compromise but wanted to implement his proposal. One of the compromises was to build a two-lane highway but buy enough land to someday construct a four-lane highway. He then mentioned no money was going to be spent for several years because environmental impact studies needed to be prepared and land purchases negotiated. He maintained that was why it was so important to make a commitment and get started, and for the highway department to work it into their program. He said he drafted this bill because he saw the need, and he hoped it would be met.

EXHIBIT(his26a07), EXHIBIT(his26a08), EXHIBIT(his26a09), EXHIBIT(his26a10), EXHIBIT(his26a11), EXHIBIT(his26a12), EXHIBIT(his26a13), EXHIBIT(his26a14), EXHIBIT(his26a15), EXHIBIT(his26a16), EXHIBIT(his26a17), EXHIBIT(his26a18), EXHIBIT(his26a19), EXHIBIT(his26a20), EXHIBIT(his26a21) were handed to the secretary after the meeting.

ADJOURNMENT

Adjournment: 5:15 P.M.

SEN. ARNIE MOHL, Chairman

MARION MOOD, Secretary

AM/MM

EXHIBIT (his26aad)